REMARKS

Claims 11 – 18 have been examined. Claims 11 and 15 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Pat. No. 5,825,003 ("Jennings") and Claims 12 – 14 and 16 – 18 stand rejected under 35 U.S.C. §103(a) as unpatentable over Jennings in view of the web site:

http://web.archive.org/web/19991012023035/paypal.com/about.html ("Paypal").

The rejections that rely on Paypal are believed improper because Paypal is not prior art to the application. The underlined portion of the web site above is believed to identify a date that it was captured by the Internet Archive Wayback Machine, i.e. on October 12, 1999. As further evidence that this is the date, Exhibit 1 provides a printout of the list of all pages at www.paypal.com captured by the Internet Archive Wayback Machine, the earliest of which is October 12, 1999. The priority date of this application under 35 U.S.C. §120 is May 10, 1999, as evidenced by the copy of the Filing Receipt included as Exhibit 2. To ensure that the correct priority date is considered during prosecution, the specification has been amended to include a specific reference to the priority application. Since Paypal is not prior art, at least Claims 12 – 14 and 16 – 18 are believed to be allowable.

Claim 11 has been amended to recite that the request is received over the Internet in response to and substantially contemporaneous with consummation of a transaction between the sender and recipient (*see* Application, p. 5, ll. 12 – 14 and p. 5, ll. 29 – 31). The combination of limitations in amended Claim 11 is neither taught nor suggested by Jennings, which is directed to a system for transferring funds between accounts in banking systems (Jennings, Col. 2, ll. 38 – 43). In particular, there is no disclosure or suggestion in Jennings of receiving a request for a transfer either over the Internet or in response to consummation of a transaction between the sender and recipient.

The rejection of Claim 15 is respectfully traversed. Claim 15 requires, *inter alia*, that the request include information on a payment instrument (such as a credit card, Application, p. 5, l. 27), that an authorization request to charge the payment instrument be sent, and that an authorization to charge the payment instrument be received. The bank-transfer applications disclosed in Jennings are not associated with a payment instrument and do not require authorization to charge a payment instrument. In making the rejection, the Office Action points to the following language as disclosing "authorization" (Office Action, p. 3):

> It is an object of the invention to overcome the shortcomings discussed above with a system for transferring funds instantly to an account maintained in the same or another bank business through the use of a terminal such as an ATM, home banking phone, personal computer, conventional telephone or the like. The system according to the invention allows funds to be transferred to an account based on customer information which can be automatically accessed by the system, rather than needing to be manually entered. Further, the system automatically computes the appropriate exchange rate and any fees to be charged to the account and displays them to the user so that the user may authorize or cancel the transaction. The system also analyzes the parameters of the transfer to assure that the transfer conforms with pertinent government regulations. The system also enables the user to quantify the amount to be transferred in the currency of the originating account or the currency of the receiving account, thereby maximizing the flexibility of the system.
> (Jennings, Col. 2, ll. 37 – 56).

This language cited by the Office Action provides no disclosure or suggestion of those limitations related to the payment instrument, including providing no disclosure of sending an authorization request to charge the payment instrument nor any disclosure of receiving an authorization to charge the payment instrument. If any rejection is maintained on the basis of Jennings, Applicants request a specific articulation of what part of Jennings is believed to disclose the limitations related to the payment instrument. 37 CFR 1.104(c)(2).

Claims 19 and 20, depending respectively from Claims 11 and 15, have been added to recite that the recipient is a merchant (*see* Application, p. 5, ll. 8 – 11). They are believed to be allowable at least by virtue of their dependence from allowable independent claims.
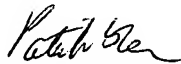
CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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DE 7100884 v1

INTERNET ARCHIVE
WayBackMachine

Enter Web Address: `http://`　　`All ▼`　`Take Me Back`　Adv. Search Compare Archi\

Searched for http://www.paypal.com　　　　　　　**391** Results

Note some duplicates are not shown. See all.
* denotes when site was updated.

Search Results for Jan 01, 1996 - Apr 09, 2003

1996	1997	1998	1999	2000	2001	2002	2003
0 pages	0 pages	0 pages	4 pages	22 pages	109 pages	116 pages	0 pages

1999	2000	2001	2002
Oct 12, 1999 *	Mar 02, 2000 *	Feb 24, 2001 *	Jan 24, 2002 *
Oct 13, 1999	Mar 03, 2000 *	Feb 26, 2001	May 29, 2002 *
Nov 04, 1999 *	Mar 03, 2000 *	Mar 01, 2001	May 30, 2002
Dec 04, 1999	Mar 04, 2000	Mar 02, 2001	Jun 02, 2002
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	Apr 07, 2000	Mar 31, 2001 *	Aug 03, 2002 *
	Apr 08, 2000	Apr 18, 2001	Aug 04, 2002
	May 10, 2000	May 04, 2001 *	Aug 05, 2002
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	May 20, 2000 *	May 16, 2001	Aug 07, 2002
	Jun 19, 2000	May 17, 2001	Aug 08, 2002
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	Jul 06, 2000	May 26, 2001 *	Aug 11, 2002
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